IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3890 OF 2004

Ashok Venkat Reddy ...Applicant

vs.

Saraswati S. Nair and other ...Respondents

Ms J.P.Akolkar h/f Mr.A.G.Bhaktwani for the Applicant
Mr.A.S.Shitole,A.P.P. for State
Mr.B.N.Rai for the Respondent No.1

CORAM: A.S.OKA,J.
DATE : OCTOBER 7,2006.

P.C.:

1. The submissions of the Advocates appearing for the parties were heard. By this Application, the Applicant is seeking leave to prefer an Appeal against the order of acquittal. The applicant filed a complaint under section 138 of Negotiable Instruments Act, 1881 and the complaint has resulted in acquittal. The learned Counsel for the Applicant submitted that from the Memorandum of Understanding/agreement dated 2nd June 1999, the legal liability of the first Respondent was clearly established as the said agreement has been proved in evidence. She submitted that the learned Trial Judge has committed an error by coming to the conclusion that no legal liability was in existence.

2. I have considered the submissions. The perusal of the agreement dated 2nd June 1999 on which reliance is placed by the Applicant shows that the amount of Rs.86,400/- was to be paid by the first Respondent only after registration of the

document of sale was completed. Admitted position is that the registration of the document has not been completed by the Applicant. Thus, the sum of Rs.86,400/- was not due and payable by the first Respondent. The cheques in dispute were in the total sum of Rs.86,400/-. Therefore, there was no legally enforceable liability on the relevant date.

3. The view taken by the learned Trial Judge is a possible view which could have been taken on the basis of evidence on record. No case is made out for grant of leave. Application is rejected.

JUDGE